

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CV

Humberto Rivera Jr.

Plaintiff,

Against,

COMPLAINT

PUTNAM COUNTY,

PUTNAM COUNTY SHERIFF'S OFFICE,

TRIAL BY JURY DEMANDED

SHERIFF ROBERT L. LANGLEY, JR.

In his official and individual capacities,

DEPUTY SHERIFF THOMAS VARBERO,

In his official and individual capacities,

DEPUTY SHERIFF SCOTT E. LOMBARDO

In his official and individual capacities,

Defendants

COMPLAINT

Humberto Rivera Jr., hereinafter the Plaintiff, for his claim sues PUTNAM COUNTY, PUTNAM COUNTY SHERIFF'S OFFICE, SHERIFF ROBERT L. LANGLEY, JR., DEPUTY SHERIFF THOMAS VARBERO, DEPUTY SHERIFF SCOTT E. LOMBARDO hereinafter the defendant(s).

JURISDICTIONAL ALLEGATIONS

1. In this case federal question is the basis for federal court jurisdiction 28 USC 1331 and 28 USC 1343
2. Plaintiffs' causes of action arising under the constitution of the United States and 42 USC 1983.

3. Pursuant to the Declaratory Judgment Act, 28 USC 2201 and 28 USC 2202 this court has supplemental jurisdiction over plaintiff's causes of action arising under NEW YORK STATE law

4. At all times material to this lawsuit, Humberto Rivera Jr was a resident of Putnam County, New York.

5. At all times material to this lawsuit, the defendants PUTNAM COUNTY, PUTNAM COUNTY SHERIFF'S OFFICE, SHERIFF ROBERT L. LANGLEY, JR., DEPUTY SHERIFF THOMAS VARBERO, DEPUTY SHERIFF SCOTT E. LOMBARDO were / are employed by Putnam County NY and governmental agencies of Putnam County NY.

5. All acts necessary or precedent to the bringing of this lawsuit occurred or accrued in Putnam County, New York.

6. Venue lies in the United States District Court Southern District of New York because a substantial part of the events or omissions giving rise to plaintiff's claims occurred in Putnam County, New York.

BACKGROUND

7. This is an action for money damages pursuant to 42 U.S.C. § 1983 and 1988 the Fourth and Fourteenth Amendments to the United States Constitution, and under the law of the State of New York against PUTNAM COUNTY SHERIFF'S OFFICE, SHERIFF ROBERT L. LANGLEY, JR., DEPUTY SHERIFF THOMAS VARBERO, DEPUTY SHERIFF SCOTT E. LOMBARDO in their individual and official capacities and against Putnam County, hereinafter referred to as defendant(s).

8. On March 2nd, 2019 at or about 11:40 PM the defendant deputy sheriff Thomas Varbero came rushing through the front door of my home without permission or consent, absent exigent circumstances or probable cause.

9. The Plaintiff was not intoxicated, incapacitated, a threat to the safety of himself or others, or disorderly.

10. That Plaintiff asked the defendant to explain this intrusion into his home asserting that his Civil Rights were being violated.

11. That without Plaintiff's permission the defendant walked into one(1) of the bedrooms in the home.

12. The defendant flashed lights on my son (one year old) and his mother's face while they slept.

13. Defendant proceeded with interrogations and searches as he ordered my son's mother out the bedroom in her pajamas.

14. The defendant perpetuated this intimidation by threatening the Plaintiff by shouting: "Shut up or you're gonna end up in the hospital!"

WHEREFORE Humberto Rivera Jr Plaintiff moves this Honorable Court to enter an Order for monetary, punitive, damages in excess of \$2,000,000 against all the Defendants, together with such other and further relief as the Court may deem reasonable and just under the circumstances. There are witnesses.

AS AND FOR THE FIRST CAUSE OF ACTION

42 USC 1983 against defendant deputy sheriff Thomas Varbero

15. Plaintiff realleges and restates and incorporates by reference paragraphs 1-14

16. Plaintiff claims damages under 42 U.S.C. § 1983 for the injuries and damages set forth above against the defendant

17. .The defendant proceeded a warrantless search and seizure in the home without consent

18. Violation of plaintiff's constitutional rights under the Fourth 4th Amendment to the United States, to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures,shall not be violated.

19. Violation of his constitutional rights under the fourteenth 14th Amendment to the United States. No state shall deprive any person born in the United States life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

AS AND FOR THE SECOND CAUSE OF ACTION

assault against defendant Deputy Sheriff Thomas Varbero

20. Plaintiff realleges and restates and incorporates by reference paragraphs 1-19

21. The defendant stormed through the front door of plaintiffs' home like a raging bull charging at plaintiff while the plaintiff's family laid sound asleep he stopped and entered the bedroom after plaintiff pleaded for his family.

22. The defendant forcefully ordered the plaintiff to comply with his orders violating plaintiffs' constitutional rights.

23. That the plaintiff insisted on identifying who and what prompted the deputy sheriff Varbero into my home and the defendant had no identifying information nor my daughters information.

24. The defendant assaulted me by unlawfully offering to intentionally cause harm.

25. The defendant perpetuated this intimidation by threatening the Plaintiff shouting "Shut up or you're gonna end up in the hospital!"

26. The armed PM's present ability to effectuate harm created fear of imminent peril for the Plaintiff when the defendant shouted in the Plaintiffs' face.

27. Evidently there were no exigent circumstances nor probable cause for the search and seizure in the home of the plaintiff when the defendant stormed out the front door.

AS AND FOR THE THIRD CAUSE OF ACTION

negligent infliction of emotional distress against defendant Deputy Sheriff Thomas

Varbero

- 28. Plaintiff realleges and restates and incorporates by reference paragraph 1-26
- 29. That the defendant has caused severe emotional distress
- 30. The defendants' conduct was indecent,atrocious,odious,uncivilized and intolerable.
- 31. As a result the Plaintiff is embarrassed, ashamed and displaced in his community.
- 32. The defendant caused anxiety, depression,emotional harm,mental suffering,mental disturbance, medically diagnosed Post Traumatic Stress Disorder, medically diagnosed sleep disorder.

AS AND FOR THE FOURTH CAUSE OF ACTION

False imprisonment against defendant Deputy Sheriff Thomas Varbero.

- 33. Plaintiff realleges and restates and incorporates by reference paragraph 1-32
- 34.The Defendant falsely imprisoned plaintiff by unlawfully detaining him against his will.
- 35. Defendants had no reason to falsely imprison Plaintiff because he did not reasonably believe that there were exigent circumstances or probable cause for imprisonment.
- 36. Defendant abused their power by falsely imprisoning Plaintiff against his will.
- 37. Defendant kept the Plaintiff's daughter out of the house in cold weather putting a minor (8 years old) in danger.
- 38. Plaintiff was assertive to the defendant that he was violating his constitutional rights including his daughter and family.
- 39. The Deputy Sheriff Varbero falsely imprisoned all children and adults that were in the plaintiffs home.

AS AND FOR THE FIFTH CAUSE OF ACTION

42 USC 1983 against PUTNAM COUNTY, PUTNAM COUNTY SHERIFF'S OFFICE, SHERIFF

ROBERT L. LANGLEY, JR, SCOTT E. LOMBARDO.

- 40. Plaintiff realleges and restates and incorporates by reference paragraphs 1-36

41. Prior to the date of the cause of this action defendants developed and maintained customs or policies exhibiting deliberate indifference to the constitutional rights of persons in Putnam County, New York, which caused the violation of Plaintiffs' rights.

42. It was the policy and/or custom of the defendants to fail to exercise reasonable care in hiring its police officers, including Defendant deputy Sheriff Varbero thereby failing to adequately prevent constitutional violations on the part of its deputy sheriffs.

43. It was the policy and/or custom of the defendants to inadequately supervise and train its police officers, including Defendant deputy sheriff Varbero thereby failing to adequately discourage further constitutional violations on the part of its deputy sheriffs.

44. As a result of the above described policies and customs, the defendant believed that his actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated.

45. The above described policies and customs demonstrate a deliberate indifference on the part of Putnam County to the constitutional rights of persons within Putnam County and were the cause of the violations of Plaintiff's rights alleged herein.

AS AND FOR THE SIXTH CAUSE OF ACTION

against Respondeat superior Putnam County

46. Plaintiff realleges and restates and incorporates by reference paragraphs 1-45

47. Defendants are liable for the assault, negligent infliction of emotional distress, False imprisonment. committed against Plaintiff by the Defendant deputy sheriff Varbero, while acting in the scope of his employment.

48. Plaintiff realleges and restates and incorporates by reference paragraphs 1-47.

49. As a direct and proximate result of the acts of the defendant paragraphs 1-48, Plaintiff suffered the following injuries and damages:

- a. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution.
- b. Loss of his physical liberty;
- c. Mental pain and suffering and other mental distress, including Post Traumatic Stress Disorder;
- d. Fear of imminent peril resulting from an offer or attempt to injure him.
- e. The actions of the defendant endangered the child's psychological well-being, autonomy, and relationship to the family.
- f. Defendant unreasonably trespassed into the home violating Humberto's constitutional rights.

WHEREFORE Humberto Rivera Jr Plaintiff moves this Honorable Court to enter an Order for monetary, punitive, damages in excess of \$2,000,000 against all the Defendants, together with such other and further relief as the Court may deem reasonable and just under the circumstances.

Plaintiff address

PO Box 892

Brewster, New York 10509

s/ Humberto Rivera Jr.

The defendant, PUTNAM COUNTY, is incorporated under the laws of the State of NEW YORK

and has its principal place of business in the State of NEW YORK

or is incorporated under the laws of (foreign state) NEW YORK

and has its principal place of business in PUTNAM COUNTY, NEW YORK

The defendant, PUTNAM COUNTY SHERIFF OFFICE, is incorporated under the laws of the State of NEW YORK

and has its principal place of business in the State of NEW YORK

or is incorporated under the laws of (foreign state) NEW YORK

and has its principal place of business in PUTNAM COUNTY, NEW YORK.

The defendant, ROBERT L LANGLEY, JR is a citizen of the State of NEW YORK

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of NEW YORK.

The defendant, THOMAS VERBERO, is a citizen of the State of NEW YORK

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of NEW YORK.

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The defendant, SCOTT E LOMBARDO, is a citizen of the State of NEW YORK

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of NEW YORK.

DEFENDANTS

PUTNAM COUNTY

SUPERIOR

40 Gleneida Avenue, 3rd Floor Carmel, New York 10512

PUTNAM COUNTY SHERIFF'S OFFICE

SUPERIOR

3 County Center

Carmel, NY 10512

SHERIFF ROBERT L. LANGLEY, JR.

3 County Center

Carmel, NY 10512

DEPUTY SHERIFF THOMAS VARBERO

3 County Center

Carmel, NY 10512

DEPUTY SHERIFF SCOTT E. LOMBARDO

3 County Center

Carmel, NY 10512

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CASE NO.

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In his official and individual capacities,

DEPUTY SHERIFF THOMAS VARBERO,

In his official and individual capacities,

DEPUTY SHERIFF SCOTT E. LOMBARDO

In his official and individual capacities,

Defendants

_____/

VERIFICATION OF COMPLAINT

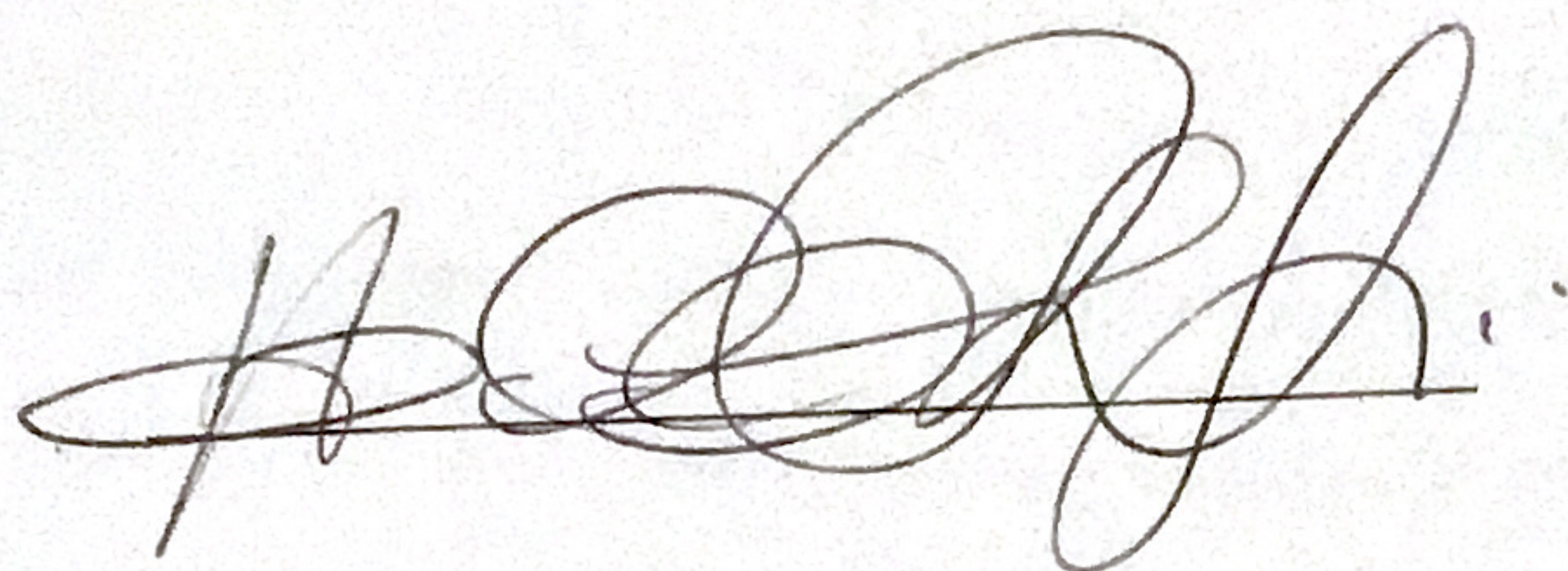
STATE OF NEW YORK

COUNTY OF PUTNAM

BEFORE ME personally appeared Humberto Rivera Jr. Plaintiff who, being by me first duly sworn and identified in accordance with NEW YORK STATE law deposes and states under penalties of perjury:

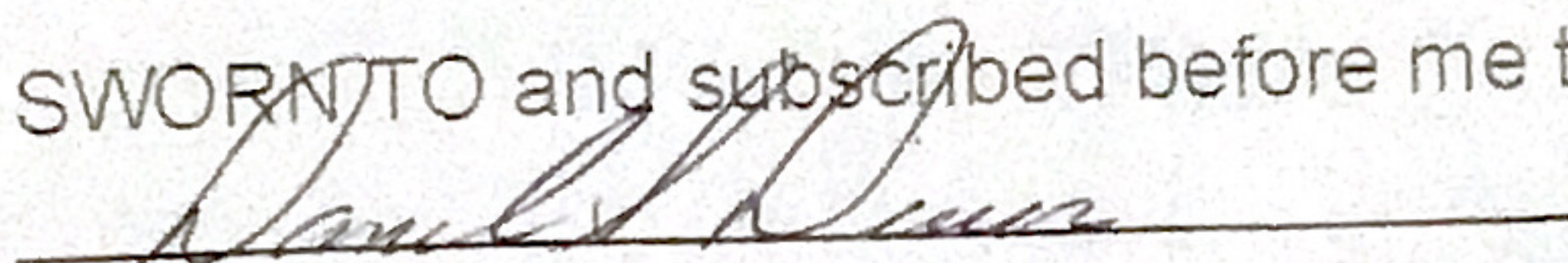
1. My name is Humberto Rivera Jr. , Plaintiff herein.
2. I have read and understood the attached foregoing complaint filed herein, and each fact alleged therein is true and correct of my own personal firsthand knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT.



Humberto Rivera jr, Affiant

SWORN TO and subscribed before me this 1 day of March 2022.



Notary Public

My commission expires: 9/22/23

